

(d) If at any point an owner or operator of a stack once again uses an inactive stack for the disposal of phosphogypsum or for water management, the stack ceases to be in inactive status and the owner or operator must notify EPA in writing within 45 days. When the owner or operator ceases to use the stack for disposal of phosphogypsum or water management, the stack will once again become inactive and the owner or operator must satisfy again all testing and reporting requirements for inactive stacks.

(e) If an owner or operator removes phosphogypsum from an inactive stack, the owner shall test the stack in accordance with the procedures described in 40 CFR part 61, appendix B, Method 115. The stack shall be tested within ninety days of the date that the owner or operator first removes phosphogypsum from the stack, and the test shall be repeated at least once during each calendar year that the owner or operator removes additional phosphogypsum from the stack. EPA shall be notified at least 30 days prior to an emissions test so that EPA may, at its option, observe the test. If meteorological conditions are such that a test cannot be properly conducted, then the owner shall notify EPA and test as soon as conditions permit. Within ninety days after completion of a test, the owner or operator shall provide EPA with a report detailing the actions taken and the results of the radon-222 flux testing. Each such report shall include all of the information specified by § 61.203(b).

**§ 61.204 Distribution and use of phosphogypsum for agricultural purposes.**

Phosphogypsum may be lawfully removed from a stack and distributed in commerce for use in agriculture if each of the following requirements is satisfied:

(a) The owner or operator of the stack from which the phosphogypsum is removed shall determine annually the average radium-226 concentration at the location in the stack from which the phosphogypsum will be removed, as provided by § 61.207.

(b) The average radium-226 concentration at the location in the stack

from which the phosphogypsum will be removed, as determined pursuant to § 61.207, shall not exceed 10 picocuries per gram (pCi/g).

(c) All phosphogypsum distributed in commerce for use in agriculture by the owner or operator of a phosphogypsum stack shall be accompanied by a certification document which conforms to the requirements of § 61.208(a).

(d) Each distributor, retailer, or reseller who distributes phosphogypsum for use in agriculture shall prepare certification documents which conform to the requirements of § 61.208(b).

**§ 61.205 Distribution and use of phosphogypsum for research and development.**

(a) Phosphogypsum may be lawfully removed from a stack and distributed in commerce for use in research and development activities if each of the following requirements is satisfied:

(1) The owner or operator of the stack from which the phosphogypsum is removed shall determine annually the average radium-226 concentration at the location in the stack from which the phosphogypsum will be removed, as provided by § 61.207.

(2) All phosphogypsum distributed in commerce for use in research or development by the owner or operator of a phosphogypsum stack or by a distributor, retailer, or reseller shall be accompanied at all times by certification documents which conform to the requirements of § 61.208.

(b) Phosphogypsum may be purchased and used for research and development purposes if the following requirements are satisfied:

(1) Each quantity of phosphogypsum purchased by a facility for a particular research and development activity shall be accompanied by certification documents which conform to the requirements of § 61.208.

(2) No facility shall purchase or possess more than 700 pounds of phosphogypsum for a particular research and development activity.

(3) Containers of phosphogypsum used in research and development activities shall be labeled with the following warning:

Caution: Phosphogypsum Contains Elevated Levels of Naturally Occurring Radioactivity